

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re: § Case No. 16-33470
§
THERMA-FLITE MANUFACTURING, LLC, § (Chapter 7 Case)
§
Debtor. §

**CFC, INC.'S EMERGENCY MOTION TO COMPEL
WRITTEN DISCOVERY ON CHAPTER 7 TRUSTEE**

TO THE HONORABLE DAVID R. JONES, UNITED STATES BANKRUPTCY JUDGE:

COMES NOW CFC, Inc. (“CFC”), a secured creditor of Therma-Flite, Inc. (“T-F Inc.”), Therma-Flite Manufacturing, LLC (“T-F Mfg.”), Therma-Flite Holdings, Inc. (“T-F Hldgs.”), Therma-Flite TX, Inc. (“T-F Tex.”), and Therma-Flite Industrial, Inc. (“T-F Indus.” and, together with T-F Inc., T-F Mfg., T-F Holdings, and T-F Tex. the “Debtors”) in the above-styled and numbered bankruptcy case (the “Bankruptcy Case”), files this its *Emergency Motion to Compel Written Discovery on Chapter 7 Trustee* (the “Motion”), respectfully stating as follows:

1. As evidenced by that certain *Certificate of Service of Written Discovery on Chapter 7 Trustee* [Docket No. 107], CFC properly served (i) *CFC, Inc.'s First Set of Requests for Production to Chapter 7 Trustee Eva Engelhart* (the “CFC RFPs”) and (i) *CFC, Inc.'s First Set of Interrogatories to Chapter 7 Trustee, Eva Engelhart* (the “CFC Roggs” and, together with the CFC Roggs, the “Written Discovery”) on February 2, 2017 on Eva S. Engelhart, the Chapter 7 trustee in the Bankruptcy Case, (the “Trustee”). The Written Discovery was made in connection with *CFC's Motion for Substantive Consolidation* [Docket No. 24] (the “Motion for Consolidation”), filed on October 21, 2016. The hearing on the Motion for Consolidation is scheduled for this Wednesday, March 15, 2017, at 2:00 p.m. (central time) (the “Hearing”).

2. The Trustee was required to produce non-privileged, responsive documents and provide any response or objections in connection with the Written Discovery. Instead, the Trustee has only provided objections and responses to the CFC RFPs. Most of the objections and responses to the RFPs are baseless, relying on privilege and the requests being “overly broad” or “vague.” Not a single document was produced. And no responses, objections, or documents were produced in connection with the CFC Roggs.

3. As provided below in the *Certificate of Conference*, it became clear from her recent deposition that the Trustee was unaware of the deadline for discovery and was working to produce documents in response to the Discovery. However, the Trustee refused to answer whether she would produce non-privileged, responsive documents before the Hearing.

4. CFC therefore requests that this Court compel the Trustee to end her flagrant disregard of CFC’s Written Discovery requests, provide proper and meritorious responses, and produce non-privileged, responsive documents to CFC. CFC further requests sanctions against the Trustee in the form of an administrative claim equal to the reasonable times and costs expended by CFC.

WHEREFORE, PREMISES CONSIDERED, CFC respectfully requests that this Court enter an order: (i) granting this Motion; (ii) ordering the Trustee to provide CFC with meritorious answers and produce non-privileged, responsive documents in response to the Written Discovery; and (iii) sanctioning the Trustee by providing CFC with an administrative claim equal to the reasonable times and costs expended by CFC.

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Respectfully submitted on the 11th day of March 2017,

GLAST, PHILLIPS & MURRAY, P.C.,

By: /s/ Jonathan L. Howell

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ATTORNEYS FOR CFC, INC.

CERTIFICATE OF CONFERENCE

The undersigned hereby certifies that, on the 8th of March 2017, he conferred with the Trustee about her failure to properly respond the Written Discovery, whom at that time indicated she is going to do comply with the Written Discovery but refused to confirm she would do so before the Hearing.

By: /s/ Jonathan L. Howell

Jonathan L. Howell, PLLC

CERTIFICATE OF SERVICE

The undersigned hereby certifies that, on the 11th day of March 2017, he caused this Motion to be served on the following through the Court's CM/ECF service, e-mail, and or U.S. first-class mail, postage prepaid:

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Eva S. Engelhart, Chapter 7 Trustee
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By: /s/ Jonathan L. Howell

Jonathan L. Howell, PLLC